

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARCOS ORTIZ,

Plaintiff,

VS.

MICHAEL J. ASTRUE,

Defendant.

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CIVIL ACTION NO. C-10-62

**ORDER GRANTING UNOPPOSED MOTION FOR ATTORNEYS FEES
AND EXPENSES**


On March 28, 2011, final judgment was entered remanding this case to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g) so that proper consideration could be given to the consultative expert's opinion (D.E. 16). The Commissioner did not appeal the decision.

On June 2, 2011, plaintiff filed his unopposed motion for attorneys fees and costs pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412 (D.E. 17). The Commissioner filed a response agreeing that plaintiff was entitled to EAJA fees and that the amount requested by plaintiff was reasonable, and correctly pointing out that EAJA fees are payable to the plaintiff, not to plaintiff's counsel (D.E. 18). *Astrue v. Ratliff*, ___ U.S. ___, 130 S.Ct. 2521 (2010).

Accordingly, plaintiff's motion (D.E. 17) is granted. As required by 28 U.S.C. § 2412, the Court finds, as alleged, that plaintiff is a prevailing party, that the position of the United States was not substantially justified, and the plaintiff's net worth does not exceed \$2,000,000. The Court further finds reasonable the request that plaintiff be compensated for the services of

his attorney at a rate of \$170.00 per hour for 38.4 hours for a total award of \$6,528.00. This sum is payable to plaintiff Marcos Ortiz by the Commissioner.

SIGNED and ORDERED this 14th day of June, 2011.



Janis Graham Jack
Senior United States District Judge